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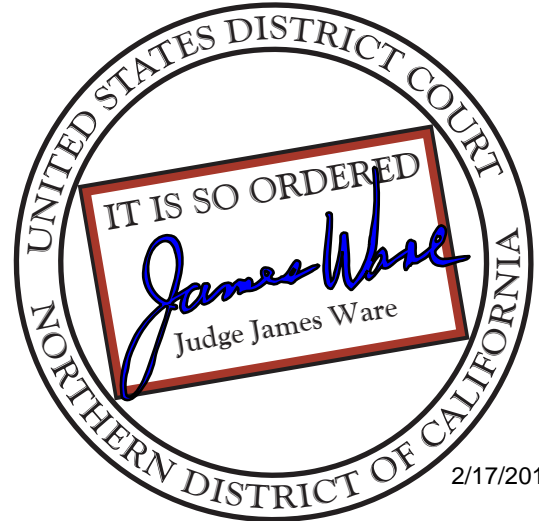
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15 UNITED STATES DISTRICT COURT
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION
18

19 IN RE APPLE & AT&TM ANTITRUST)
LITIGATION)

Master File No. C 07-05152 JW

20)
21) **STIPULATION OF VOLUNTARY**
22) **DISMISSAL OF COUNT VII, VIOLATION**
23) **OF THE MAGNUSON--MOSS**
24) **WARRANTY ACT, AS AGAINST AT&T**
25) **MOBILITY LLC, PURSUANT TO FED. R.**
26) **CIV. PRO. 41(a)(1)(A)(ii)**

27) CRTRM: 8
28) JUDGE: Hon. James Ware

STIPULATION OF VOLUNTARY DISMISSAL OF COUNT VII, VIOLATION OF THE MAGNUSON-MOSS
WARRANTY ACT, AS AGAINST AT&T MOBILITY LLC, PURSUANT TO FED. R. CIV. PRO. 41(A)(1)(A)(II)
MASTER FILE NO. C 07-05152 JW

1 WHEREAS, Plaintiffs filed a Revised Consolidated Amended Class Action Complaint in
2 the above-captioned action on June 4, 2008, alleging in Count VII that defendants AT&T
3 Mobility, LLC ("ATTM") and Apple, Inc. violated the Magnuson-Moss Warranty Act (the
4 "Warranty Claim");

5 WHEREAS, on October 30, 2008, ATTM filed a motion to dismiss, *inter alia*, the
6 Warranty Claim pursuant to Fed. R. Civ. Pro 12(b)(6) (the "Motion");

7 WHEREAS, on March 3, 2009, the Court denied ATTM's Motion, holding, "Whether or
8 not AT&TM had, in fact, warranted Plaintiffs' iPhones is a dispute more appropriately resolved
9 after discovery" (March 4, 2009 Order [Docket No. 187] at 4);

10 WHEREAS, the parties have participated in "class" discovery and that discovery has
11 shown that ATTM did not breach any warranty with respect to any Plaintiffs' iPhone;

12 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and through the
13 Plaintiffs' and ATTM's respective counsel, the Plaintiffs' Warranty Claim shall be voluntarily
14 dismissed with prejudice as to Defendant ATTM only, under the following terms and conditions:

15 1. Plaintiffs and ATTM agree that the Plaintiffs' Warranty Claim shall be voluntarily
16 dismissed as to Defendant ATTM only, pursuant to Federal Rule of Civil Procedure
17 41(a)(1)(A)(ii);

18 2. ATTM shall not seek reimbursement of any fees, costs, or expenses from Plaintiffs
19 in connection with the filing or dismissal of the Warranty Claim against it;

20 3. The parties represent that neither ATTM nor ATTM's counsel have made or
21 promised any payment, direct or indirect, to Plaintiffs or their counsel in consideration of the
22 dismissal of the Warranty Claim against ATTM;

23 4. This Stipulation of Voluntary Dismissal of Count VII, Violation Of The
24 Magnuson-Moss Warranty Act, As Against AT&T Mobility LLC, Pursuant To Fed. R. Civ. Pro.
25 41(a)(1)(A)(ii) (the "Stipulation") does not constitute or imply any admission or confession by any
26 party regarding the basis for Plaintiffs' allegations in the above-captioned action or the merits of
27 any claim or defense raised in above-captioned action;

28 STIPULATION OF VOLUNTARY DISMISSAL OF COUNT VII, VIOLATION OF THE MAGNUSON-MOSS
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1 5. This Stipulation has no bearing on the pendency or prosecution of the
2 above-captioned action; and

3 6. This Stipulation reflects the entire terms for the dismissal of the Warranty Claim
4 against ATTM.

5 DATED: February 10, 2010

Respectfully Submitted,

6 WOLF HALDENSTEIN ADLER
7 FREEMAN & HERZ LLP
8 FRANCIS M. GREGOREK
RACHELE R. RICKERT

9 /s/ Rachele R. Rickert

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Additional Counsel for Plaintiffs

DATED: February 10, 2010

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/s/ Kyler E. Smart
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APPLE:17408.STIP

STIPULATION OF VOLUNTARY DISMISSAL OF COUNT VII, VIOLATION OF THE MAGNUSON-MOSS
WARRANTY ACT, AS AGAINST AT&T MOBILITY LLC, PURSUANT TO FED. R. CIV. PRO. 41(A)(1)(A)(II)
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DECLARATION REGARDING CONCURRENCE

I, Rachele R. Rickert, am the ECF User whose identification and password are being used to file this STIPULATION OF VOLUNTARY DISMISSAL OF COUNT VII, VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT, AS AGAINST AT&T MOBILITY LLC, PURSUANT TO FED. R. CIV. PRO. 41(a)(1)(A)(ii). In compliance with General Order 45.X.B, I hereby attest that Kyler E. Smart has concurred in this filing.

DATED: February 10, 2010

WOLF HALDENSTEIN ADLER FREEMAN
& HERZ LLP

By: /s/ Rachele R. Rickert
RACHELE R. RICKERT

STIPULATION OF VOLUNTARY DISMISSAL OF COUNT VII, VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT, AS AGAINST AT&T MOBILITY LLC, PURSUANT TO FED. R. CIV. PRO. 41(A)(1)(A)(II) MASTER FILE NO. C 07-05152 JW

DECLARATION OF SERVICE

I, Maureen Longdo , the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested in the within action; that declarant's business address is 750 B Street, Suite 2770, San Diego, California 92101.

2. That on February 10, 2010, declarant served the STIPULATION OF VOLUNTARY DISMISSAL OF COUNT VII, VIOLATION OF THE MAGNUSON -MOSS WARRANTY ACT, AS AGAINST AT&T MOBILITY LLC, PURSUANT TO FED. R. CIV. PRO. 41(a)(1)(A)(ii) via the CM/ECF System to the parties who are registered participants of the CM/ECF System.

3. That on February 10, 2010, declarant served the aforesaid document to the parties who are not registered participants of the CM/ECF System, via United States Mail.

4. That there is regular communication between the parties.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of February 2010, at San Diego, California.


MAUREEN LONGDO

STIPULATION OF VOLUNTARY DISMISSAL OF COUNT VII, VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT, AS AGAINST AT&T MOBILITY LLC, PURSUANT TO FED. R. CIV. PRO. 41(A)(1)(A)(II) MASTER FILE NO. C 07-05152 JW